

SENATE—Friday, November 30, 2001

The Senate met at 9:30 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, in these challenging days, we remember Abraham Lincoln's words: "I have been driven many times upon my knees by the overwhelming conviction that I had nowhere else to go. My own wisdom, and that of all about me, seemed insufficient for the day."

Holy, righteous God, we sense that same longing to be in profound communion with You because we need vision, wisdom, and courage no one else can provide. We long for our prayers to be a consistent commitment to be on Your side rather than an appeal for You to join our partisan causes. Forgive us when we act like we have a corner on the truth and always are right. Then our prayers reach no further than the ceiling. In humility, we spread out our concerns before You and ask for Your inspiration. You have taught us to pray: *Your will be done on earth as it is in heaven.* Amen.

PLEDGE OF ALLEGIANCE

The Honorable HERB KOHL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 30, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, this morning the Senate will be in a period for morning business, with Senators permitted to speak for up to 10 minutes each. There will be no rollcall votes today. The next rollcall vote, the majority leader has asked me to announce, will be at approximately 5 p.m. on Monday. We could have a series of three votes on Monday beginning at 5 p.m. Everyone is reminded that there have been three cloture motions filed with respect to H.R. 10. All first-degree amendments must be filed prior to 1 p.m. today.

I stress that because the majority leader has asked me to announce we are going to go out of session at 1:15 p.m., the reason being the remediation that is taking place in the Hart Building today. The Dirksen Building will be closed this afternoon, and we want to make sure we are out of session before the closure of the Dirksen Building begins. Everyone should cooperate. We are not going to make a unanimous consent request to recess at 1:15 p.m. Everyone should understand that it would be tremendously inconvenient for the staff and everyone else if we went past 1:15 p.m. today. Everyone has hours to speak this morning if they wish. They should rearrange their schedule to speak. We would recess earlier, but because of the previous order entered, we want to make sure that is maintained and people can file their amendments prior to 1 p.m. At 1:15 p.m., we are going to have to recess the Senate.

MEASURES PLACED ON CALENDAR—H.R. 2722 and H.R. 3189

Mr. REID. Mr. President, I understand there are some bills at the desk that have been read the first time. They are H.R. 2722 and H.R. 3189.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. Mr. President, I ask unanimous consent that it be in order en bloc for these two bills to receive a second reading, and I would then object to any further consideration of this legislation at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will read the title of the bills for the second time.

The legislative clerk read as follows:

A bill (H.R. 2722) to implement effective measures to stop trade in conflict diamonds, and for other purposes.

A bill (H.R. 3189) to extend the Export Administration Act until April 20, 2002.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bills will be placed on the calendar.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The Chair recognizes the Senator from Rhode Island.

Mr. REED. Mr. President, I anticipate speaking a bit longer than 10 minutes. I ask unanimous consent to speak for so much time as I may consume.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GUN SHOW BACKGROUND CHECK ACT OF 2001, S. 767

Mr. REED. Mr. President, I rise today to inform Senators of my intention to bring before the Senate at the earliest possible time an important piece of legislation that I introduced last April along with 21 of my colleagues.

Our bipartisan bill, S. 767, the Gun Show Background Check Act of 2001, would apply the Brady law to all firearms sales at gun shows, thereby closing the loophole that allows criminals to buy firearms from private sellers at gun shows without a background check. This legislation is identical to the Lautenberg amendment passed by the Senate on a bipartisan vote in the 106th Congress.

As long as gun violence continues to take the lives of 10 of our young people every day, and about 30,000 Americans every year, we must do everything we can to prevent convicted felons, domestic abusers, and other prohibited purchasers from gaining access to firearms.

It has been my intention to bring this legislation to a vote since its introduction last spring. We were asked not to offer the bill as an amendment to the education bill because it was one of the President's top priorities. We were asked not to offer it to the bipartisan campaign finance reform bill because it was non-germane. We were asked not to offer it to the bipartisan Patients' Bill of Rights because it was

a fragile compromise. We were asked not to offer it to the Defense authorization bill because of the critical importance of moving that legislation. Finally, we are barred by Senate rules from offering the amendment to the fiscal year 2002 appropriations bills moving through the Senate.

By not enacting this legislation, we have, unfortunately, overlooked one of the most effective tools we can give to law enforcement to prevent violent acts against our people, and that is the ability to conduct background checks every time a gun is sold at more than 4,000 gun shows held in this country each and every year. The time has come for the Senate to consider this legislation. It was important before September 11, and it is even more important today.

Here are the facts: The Bureau of Alcohol, Tobacco and Firearms reported to Congress last year that gun shows are a major gun trafficking channel, responsible for more than 26,000 illegal firearms sales during a single 18-month period. Gun shows are the second leading source of illegal guns recovered in gun trafficking investigations. The FBI and ATF tell us again and again that convicted felons, fugitives from justice, and other prohibited purchasers are taking advantage of the gun show loophole to acquire firearms.

Now, more and more evidence is emerging that terrorists also know the weaknesses in our gun laws. The Chicago Tribune reported on November 18 that among the ruins of radical Islamic safehouses in Kabul were computer printouts of Jihad training manuals that emphasized how easy it is to obtain firearms, and firearms training, in the United States.

Under the heading "How Can I Train Myself for Jihad," the manual says, "in other countries, for example, some states of the United States or South Africa, it is perfectly legal for members of the public to own certain types of firearms. If you live in such a country, obtain an assault rifle legally, preferably AK-47 or variations, learn how to use it properly and go and practice in the areas allowed for such training." The manual goes on to advise those training for holy war to join American gun clubs to sharpen their shooting skills, saying,

There are many firearms courses available to the public in the USA, ranging from 1 day to 2 weeks or more. These courses are good but expensive. Some of them are only meant for security personnel but generally they will teach anyone. It is also better to attend these courses in pairs or by yourself, no more. Do not make public announcements when going on such a course. Find one, book your place, go there, learn, come back home and keep it yourself. . . . Useful courses to learn are sniping, general shooting and other rifle courses. Handgun courses are useful but only after you have mastered rifles.

We also have new evidence of suspected terrorists using gun shows to

obtain weapons. On September 10, a jury in Detroit convicted Ali Boumelhem, a member of the terrorist group Hezbollah, on charges of conspiring to smuggle guns and ammunition to Lebanon. Mixed in with auto parts in a container bound for Lebanon, law enforcement authorities found a variety of weapons and accessories purchased at gun shows, including two shotguns, 750 rounds of ammunition, flash suppressors for AK-47s, and upper receiver for an AR-15 (the civilian version of the M-16), and speed loaders for 5.56mm ammunition.

Ali Boumelhem and his brother, Mohamad, knew the law well, and they exploited it over the years. Because Ali is a convicted felon and therefore prohibited from purchasing firearms under the Brady law, the confiscated weapons were purchased from licensed dealers at gun shows by Mohamad, who is not a felon. Mohamad was later acquitted of charges related to this illegal "straw purchase." According to the court record, he also threatened a confidential informant during the investigation, saying "If we cannot get you here we will take care of you in Lebanon."

The investigation also revealed that prior to November 1998, when the National Instant Criminal Background Check System was implemented under the Brady law, Ali Boumelhem did purchase several shotguns from licensed dealers at gun shows by lying on the required form about his felony conviction. He knew that prior to the establishment of the NICS, background checks were not required on long guns in many States. We may never know what became of those guns, and, more importantly in terms of the legislation I am discussing today, we will never know whether Boumelhem or his brother purchased guns from private sellers at these gun shows because there is no record of sale or background check required for sales by unlicensed sellers at gun shows, then and now. What we do know is that this Hezbollah member found a large selection of weapons there and worked the system to his benefit over time before finally getting caught. We need to close the gun show loophole so that we prevent illegal weapons purchases by terrorists.

In another case, the New York Times reported on November 13 that Conor Claxton, a man accused of being a member of the Irish Republican Army, testified in Federal court in Fort Lauderdale that he and his associates had gone to south Florida gun shows to buy thousands of dollars worth of handguns, rifles, and high-powered ammunition to smuggle to Northern Ireland.

The Times also reported that on October 30 in Texas, Muhammad Navid Asrar, a Pakistani man, pleaded guilty to immigration violations and illegal possession of ammunition. Authorities said that in the last 7 years Mr. Asrar

had bought several weapons at gun shows, including handguns and rifles. According to police in Alice, Texas, a Federal grand jury is investigating whether he may be linked to al Qaeda terrorists. The Times reported that he aroused the authorities' suspicion when he asked employees at his convenience store to take pictures of tall buildings and mail letters for him from Pennsylvania back to Texas.

I wrote to Attorney General John Ashcroft earlier this month to ask what steps the Department of Justice is taking to prevent terrorist attacks involving firearms, including firearms acquired at gun shows. I look forward to his reply. I also met with officials of the Department of Justice and ATF to discuss the role of firearms in their counterterrorism efforts. Let me say that although the Attorney General and I may not agree on many issues when it comes to the regulation of firearms, I believe we have a unique opportunity to work together to prevent violent acts by terrorists and others, without infringing upon the constitutional rights of law-abiding Americans. Not one single, solitary person who is not already prohibited from possessing firearms would be denied the right to purchase firearms by our gun show bill.

I know there are those who oppose any new gun laws. They have a right to that opinion, but what is their proposed alternative? Should we ignore the Jihad manuals and the cases of Ali Boumelhem, Conor Claxton, and Mohammad Asrar? Do any of us really know what the next terrorist attack will look like? I believe we have a clear responsibility to do everything we can to prevent terrorists from gaining access to firearms.

But even if we set aside the issue of terrorists' access to guns, this legislation is important to bring some sense to our gun laws and save American lives. The chilling reports this week of an alleged plot by students at New Bedford High School to kill large numbers of their fellow students and teachers reminded us that the threat of gun violence is still very real for our children and families.

Two years ago, after Eric Harris and Dylan Klebold killed 13 people and themselves at Columbine High School with weapons purchased from a private seller at a gun show, Democrats and Republican in the Senate joined together to pass the Lautenberg amendment to close the gun show loophole. The legislation I have introduced is identical to that Senate-passed amendment. Unlike other gun show bills, it would apply the successful Brady law to every gun sold at gun shows, without exception. As under current law, law enforcement would have up to three business days to conduct background checks on firearms sales. Our opponents will say that we're trying to shut down gun shows by imposing a

"waiting period" on gun sales that usually take place on weekends. But that is not the case. There is no "waiting period." The Brady law gives law enforcement up to 3 business days to complete a background check on a prospective gun buyer. In fact, most gun purchases are processed very quickly by the NICS system. The FBI clears 72 percent of gun buyers within 30 seconds. Another 23 percent are cleared within 2 hours. That means background checks are completed within 2 hours for 95 percent of prospective gun buyers. Nineteen out of twenty have a decision rendered in just 2 hours.

But what about that last 5 percent that takes longer than 2 hours? According to a recent GAO report, those gun buyers are more than 20 times more likely to be prohibited from possessing a weapon under Federal law.

For gun buyers in that last 5 percent, potentially disqualifying information often requires the FBI to access court records—which are typically not available on a weekend; indeed, typically not available until at least Monday morning—to ensure that the person is not a convict felon or fugitive from justice; those records have to be checked.

Yet other gun show bills would make exceptions to the Brady law, reducing background checks for many gun show sales to 24 hours, to avoid inconveniencing the people in that 5-percent category. I believe that would be a serious mistake. We must reject the notion that it is better to allow a criminal to get gun than to ask a small group of potentially high-risk gun buyers to experience a minor inconvenience. If anything, law enforcement needs more time, not less, to conduct background checks. The FBI reported last year that over an 18-month period, more than 6,000 firearms were sold to convicted felons and other prohibited buyers because the three business days allowed under the Brady law expired before law enforcement could provide a definitive response. These illegal firearms must then be retrieved by State and Federal officer, as dangerous scenario which no one wants to see repeated or multiplied. We are not proposing to lengthen the time for background checks, but clearly it would be a mistake to shorten it even further. Instead, we should do the right thing for both law enforcement and gun buyers and simply apply current law to all gun show sales. No law-abiding citizen will be denied the right to purchase a firearm under my legislation. As under current law, if the 3 business days expire before law enforcement identifies a violation that would prohibit the gun sale, the sale can go forward.

We are not trying to end gun shows, and we are not trying to deny any law-abiding American the right to purchase a gun. What we are trying to end is the free pass we're now giving to convicted felons when they can walk into a guns

how, find a private dealer, buy whatever weapons they want, and walk out without a background check.

In overwhelming numbers, the American people believe that background checks should be required for all gun show sales. The people of Colorado and Oregon confirmed this last fall when they approved ballot initiatives to close the guns show loophole. I want my colleagues to know that I will take every opportunity early next year to bring the Gun Show Background Check Act before the Senate for a vote. I urge my colleagues to support this legislation so that we can finally close the gun show loophole and make sure that convicted felons, domestic abusers, terrorists, and other prohibited persons do not use gun shows to purchase firearms without a Brady background check.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized.

OPEN THE HART BUILDING

Mr. MURKOWSKI. Mr. President, I rise this morning on behalf of the residents of the Hart Building who have been dispossessed as a consequence of the anthrax incident. I am going to refer to a memorandum of November 27 to all Senators relating to the cleanup of the Senate buildings. The statement goes into some detail relative to procedure. It is from the Senate Sergeant at Arms and it outlines the activity that the various agencies—the Centers for Disease Control, Environmental Protection Agency, Federal Emergency Management Agency, National Institute of Occupational Safety and Health, and the FBI—are involved in in this process. It indicates the Environmental Protection Agency is the lead agency on the remediation—the cleanup—of the building.

It further states that in addition to the extensive environmental sampling, the team has—

... finished remediation of common areas in the Hart Building, including the atrium, walkways and the elevator in the Southwest quadrant.

That is the good news.

Post-remediation sampling results for those common areas are expected later this week.

That would have already passed.

Remediation of areas in the Hart Building which tested positive for trace amounts of anthrax is underway. EPA is in the process of detailing planning for the remediation of affected offices, including those of Senators Feingold, Baucus, Boxer, Corzine, Craig,

Feinstein, Graham, Lieberman, Lugar, Mikulski and Specter. EPA, the Sergeant at Arms, and the Secretary of the Senate staff will be discussing these plans with senior staff for the affected offices this week.

My understanding is those offices are in one core and Senator DASCHLE's office is the office where most of the spores were found.

They indicate that:

Senator Daschle's suite is being prepared for the application of chlorine dioxide gas.

I gather that may be going on sometime this weekend. But:

According to the EPA's plan, the cleanup of the Daschle suite would take place this weekend. The Dirksen Building and the Hart-Dirksen garage will be closed. . . .

That is evidently underway today.

I also note in here that:

Following the discovery of an anthrax letter addressed to Senator Leahy, environmental sampling of mail handling areas in both the Russell and Dirksen Senate Office Buildings was conducted on November 17th and 18th. The results of those tests were negative except for trace positive results in the mail handling areas of the offices of Senators Dodd and Kennedy. Those areas were cleaned up on November 24th and November 25th. . . .

So clearly they have satisfied themselves as to the adequacy of the cleanup of at least two offices, those of Senator DODD and Senator KENNEDY. They have indicated they will reopen for business November 26, which is the case.

The Dirksen mailroom has been remediated, but is not yet open for business. . . . Sampling of the off-site mail facility is . . . complete—

And so forth.

There is Medical information.

Mail: It suggested mail deliveries will start this week and we will have 5 to 6 weeks of back mail.

The interesting thing is it doesn't say a thing about when we are likely to get back in the Hart Building. It is my understanding the stacks within the Hart Building are separated and the area of greatest concern is still Senator DASCHLE's office. In discussing this with some people involved at a level that clearly they have access, a suggestion has been made that, since Senator DASCHLE's office is the area of concern now, they simply seal that off.

Then the conversation went into, how do you seal it off if you have the air ducts and air vents? Those can be blocked as well.

It is very inconvenient for those of us who are in the far stack, furthest away from the area of the incident. We have been advised that our offices are clean, but we can't go in. Yet they say the common areas now are clean.

In a meeting with EPA, I asked them if this was really something under consideration for a Superfund site. They looked at me rather startled, as if they hadn't thought about that, but it may be.

We have to have someone speak with authority. Frankly, the leadership here